

Proposed Revisions to
Local Bankruptcy Rules
and
Local Bankruptcy Forms
September 30, 2014

This document contains proposed revisions to the December 1, 2013 version of the Local Bankruptcy Rules for the District of Oregon and proposed revisions to various Local Bankruptcy Forms. A majority of the proposed revisions were recommended to the Court by the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee. Explanatory notes follow each proposed change.

Proposed new language is in **redline text**. Proposed language to be deleted is in ~~strikeout text~~.

Please [click here](#) to submit comments concerning the proposed revisions or e-mail comments to LBRcomments@orb.uscourts.gov. Any comments must be received on or before October 23, 2014 in order to be considered. After reviewing any comments, the Court will post the final revised rules and forms which will take effect on December 1, 2014 unless otherwise noted.

Local Bankruptcy Rules & Forms Proposed Revisions

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Rule 1001-1(e). Local Rules—Title, Numbering Sequence, Scope, & Effective Date

- (e) **Practice Tips.** Practice tips pertaining to these LBRs were prepared by the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee. The tips are the views of the committee and are provided as supplemental information and context for the LBRs. But the tips are not themselves LBRs or necessarily the views of the judges, and users should consult relevant statutes, rules, and case law. Practice tips are found at www.osb-dc.org.

Note

Upon the publication of the adopted version of these rules, the committee plans to finalize and post practice tips regarding local rules and forms on the website of the Oregon State Bar Debtor-Creditor Section. Proposed new LBR 1001-1(e) would alert LBR readers to the existence of these practice tips and clarify that the tips are not themselves LBRs.

Rule 1002-1. Petition—General

(a) Authority to File.

...

(3) Voluntary Petition by Attorney in Fact

...

(B) Duties of Attorney in Fact and Debtor; Limit on Authority of Attorney in Fact.

...

- (i) The attorney in fact must sign the petition as attorney in fact for the debtor and file **it with** a copy of the power of attorney, **the mailing address of the attorney in fact's dwelling house or usual place of abode or the place where the attorney in fact regularly conducts a business or profession, and a statement, signed under penalty of perjury, certifying each prerequisite in (A) and explaining the extraordinary circumstances described in (A)(iii) on the day that the petition is filed.**
- (ii) The court will issue ~~and provide to the attorney in fact an order that the attorney in fact and the debtor show cause why the case should not be dismissed. Within three business days after the court issues the order, the attorney in fact must serve it on the debtor, the trustee, the UST, and all creditors and file a certificate of service. Within 14 days after service~~ **entry** of the order, ~~(I) the attorney in fact must file a statement, signed under penalty of perjury, demonstrating whether and how the attorney in fact has complied with (A) this rule, and (II) the debtor must file a statement, signed under penalty of perjury, either ratifying the filing of the petition and all statements in it or stating why the debtor cannot do so.~~

Note

The proposed changes would add the requirement that the attorney in fact provide his or her mailing address and make other self-explanatory clarifications.

Rule 2002-1. Notices to Creditors and Other Interested Parties.

...

- (c) **Notice of Hearing Template.** A notice of hearing when an LBF does not exist or the court will not deliver one to an entity for service, may be single-spaced, must begin at least 1" from the top of the page, and must be in the following form:

...

WILL BE HELD ON [hearing date] AT [hearing time] IN [or BY] [insert either: (1) the hearing room number and street address, or (2) if by ~~"Meet-Me"~~ telephone hearing, the telephone number, **access code** hearing ID number (CLEARLY set out in bold print), ~~AND~~ **and** the statement that "LBF #Meet-Me 888 is also provided"]. [NOTE: Unless provided on the court's website at www.orb.uscourts.gov, or when using ECF, this information must be obtained from the judge's calendaring ~~person~~ **clerk** at the telephone number identified on the court's website.]

Note

The change would reflect the replacement of LBF #Meet-Me with LBF #888 (telephone-hearing instructions).

(g) **Change of Mailing Address, and Returned Document.**

- (1) **Duty to Notify Clerk of Mailing Address Change.** An entity must file a notice of the entity's address change on **LBF #101C** or **LBF #101D**, or provide the debtor's name, the case number, the entity's name, the entity's current address in the case record, and the new service address.
- (2) **Returned Document.** The clerk must use the debtor's attorney's, or a *pro se* debtor's, address as the return address of record on a notice the clerk sends, to help ensure mailing accuracy, unless documents from different cases are sent in a single envelope. Except as provided in (f), the debtor must file **LBF #101C**, **LBF #101D**, or the **BNC Bypass Notice** to correct any address errors regarding entities that were listed on the mailing list. The clerk will not maintain a permanent record of, nor retain, a document returned to the clerk.

Note

The former LBF #101 change-of-address form has been replaced with LBF #101C (for creditors) and #101D (for debtors). The BNC Bypass Notice can also be used to file a change of address.

Rule 2014-1. Chapter 7 or 11—Employment of Professionals.

- (a) **Chapter 7 Professional Employment Applications.** A trustee must file on any LBF created solely for the trustee’s use (*e.g.*, [LBF #753.50](#) (auctioneer); [LBF #753.55](#) (liquidator); [LBF #753.58](#) (collection agency); [LBF #753.60](#) (~~real estate broker~~); [LBF #753.70](#) (accountant); [LBF #753.80](#) (appraiser); [LBF #753.90](#) (attorney other than on a contingency fee basis); or [LBF #753.95](#) (attorney on a contingency fee basis)).

Note

The title of LBF #753.60 has been changed from “Application to Employ Real Estate Broker” to “Application to Employ Broker”.

Rule 2016-1. Compensation for Services Rendered & Reimbursement of Expenses.

...

(c) Chapter 7 or 11.

...

(2) Final Application.

...

(B) Form.

...

(ii) Other Professional. [LBF #345](#) must be used unless the professional is:

- (I)** Employed under [LBF #753.50](#) (auctioneer), [#753.55](#) (liquidator), [#753.58](#) (collection agency), [#753.60](#) (~~real estate~~ broker), or [#753.80](#) (appraiser).

Note

The title of LBF #753.60 has been changed from “Application to Employ Real Estate Broker” to “Application to Employ Broker”.

Rule 2016-1. Compensation for Services Rendered & Reimbursement of Expenses.

...

- (h) **Secured Creditor Expenses.** In this subdivision the term “expense” includes the costs of insurance, taxes paid, attorney fees, appraisal fees, and inspection fees.

...

(2) Chapter 12 or 13.

- (A) **Inclusion of Expenses in Proof of Claim.** A secured creditor who requests payment of expenses by the trustee must also:

...

- (iv) **Postconfirmation.** No later than the 90th day before the debtor is scheduled to make the final plan payment, file an initial or amended proof of claim that clearly identifies the requested expenses incurred after plan confirmation. **If the creditor incurs the requested expense in connection with a claim described in FRBP 3002.1(a), the creditor must also comply with FRBP 3002.1.**

- (B) **Disclosure of Preservation of Expense Claim After Discharge.** A creditor that asserts a right to expenses as part of its secured claim, but does not request payment of those expenses by the trustee, must disclose its claimed entitlement to payment of the expenses either by filing and serving on the debtor a notice of the expense claim, or by including the expense claim in the creditor’s proof of claim. A secured creditor may elect to include some expenses in its proof of claim, and other expenses in a notice.

...

- (ii) **Deadline to Give Notice.** A creditor that asserts a claim for prepetition expenses must give notice of its claim by the deadline for that creditor to file a proof of claim. A creditor that asserts a claim for postpetition expenses must make its disclosure not later than the 90th day before the debtor is scheduled to make the final plan payment. **If the creditor incurs the postpetition expense in connection with a claim described in FRBP 3002.1(a), the creditor must also comply with FRBP 3002.1.**

Note

The proposed changes would alert the holder of a claim secured by a security interest in a chapter 13 debtor's principal residence for which provision is made in the debtor's plan to comply with FRBP 3002.1, as well as LBR 2016-1(h)(2).

Rule 3001-1. Claims–General.

...

Cross-references:

- **Compensation for Services Rendered & Reimbursement of Expenses–LBR 2016-1.**
- Copy–Claim - LBR 5078-1.
- Proof of Claim and Stipulation–LBR 9010-1(a)(2)(D).

Note

The proposed additions are cross-references to additional LBRs that can affect proofs of claim.

Rule 3015-1. Chapter 12 or 13–Plan & Payments.

...

(b) Chapter 13

- (1) Plan.** A plan must be filed on the applicable version of the local bankruptcy plan form (i.e., [LBF #1300.14](#) or [LBF #1300.05](#)).

...

Note

The change reflects the adoption of LBF #1300.14 as the chapter 13 plan form required for cases filed on or after June 1, 2014. The prior form, LBF #1300.05, must be used only for modifications of plans for cases that used LBF #1300.05 for their earlier confirmed plans.

Rule 5073-1. Photograph, Recording Devices, Broadcasting, & Wireless Communication Devices.

...

- (c) **Use of Wireless Communication Devices in a Courtroom or Courtroom Area.** The following rules apply to the use of wireless communication devices:

...

- (2) A wireless communication device (*e.g.*, wi-fi) turned on in a courtroom must be ~~sent~~ **set** to “silent”, unless audio capabilities are needed as part of a court proceeding.

Note

The proposed change would correct a typographical error.

Rule 6006-1. Executory Contracts & Unexpired Leases; Assumption, Rejection, or Assignment.

...

- (b) **Chapter 12 or 13.** A debtor may provide in a plan for assumption, rejection, or assignment of an executory contract or unexpired lease. When filed, the plan **and the notice of any pending confirmation hearing** must be contemporaneously served **under FRBP 7004** on all parties to a contract or lease to be assumed, rejected, or assigned in the plan.

Note

The proposed change would clarify that the court has invoked its FRBP 9013 authority to require FRBP 7004 service of a chapter 12 or 13 plan providing for assumption, rejection, or assignment of an executory contract or unexpired lease on the counterparty to the contract or lease. (Absent such an LBR, FRBP 6006(a) excuses service under FRBP 7004 of a motion to assume, reject, or assign an executory contract or unexpired lease through a plan.) That change would be consistent with the certificate of service to the chapter 13 plan (LBF #1300.14), which requires that the individual transmitting the plan certify that the plan and notice of the confirmation hearing were served under FRBP 7004 on creditors and parties treated in paragraph 3, which lists executory contracts and unexpired leases to be assumed; in a parenthetical, the certificate instructions cite LBR 6006-1(b). **A corresponding update to the certificate of service to the chapter 12 plan (LBF #1200.05) is included in this proposal.**

Rule 9021-1. Order or Judgment—Entry of; Costs.

~~(a) — General Requirements re Proposed Order or Judgment.~~

~~(1) — Attachment of Proposed Order or Judgment to Motion, Application, or Complaint.~~ A proposed order or judgment, marked as such, may be attached to and filed with any motion, application, or complaint, except for an order for which an LBF will be used (e.g., LBF #720.90). A proposed order or judgment serves only to give notice of the form of the order or judgment that the movant, applicant, or plaintiff requests and does not constitute lodging of the order or judgment for a judge's signature. See (a)(2)(A).

~~(2) — Lodging.~~

~~(A) — General.~~ Except for a stipulated order or judgment, an order lodged under (C), or a proposed order or judgment described in (a)(1), a proposed order or judgment may not be lodged unless either (I) a copy of it has been transmitted by hand delivery, fax, or e-mail to all responding parties no later than three business days before lodging or (II) all responding parties have affirmatively approved the form of order or judgment. Except as provided otherwise in this (A) or under (C), and notwithstanding (a)(1), a proposed order or judgment must not be lodged until it is appropriate for the court to sign it. Unless the proposed order or judgment is on an LBF, the proponent of the order or judgment must certify that the proponent has complied with the requirements of this subsection.

~~(B) — Separate Document.~~ Except for a stipulated order or judgment, a proposed order or judgment must be lodged as a document separate from any other document unless it is being submitted on an LBF.

(a) Circulation of Proposed Order or Judgment.

(1) When Required. The proponent of an order or judgment must circulate it to all responding parties before lodging it with the court unless the proposed order or judgment:

(A) may be lodged concurrently with the motion or application under (b)(2) below,

(B) includes the signed statement of each responding party or its attorney that the party stipulates to entry of the order, agrees that it correctly reflects the court's ruling, or waives circulation of it, or

- (C) is approved by the court at a hearing on the motion, application, or complaint.

(2) Method. A proposed order or judgment may be circulated as follows:

- (A) by attaching the proposed order or judgment to and filing and serving it with the motion, application, or complaint that it would grant, if the court determines to grant the requested relief without modification; or
- (B) after the court announces its ruling, by hand-delivering, faxing, or e-mailing the proposed order or judgment no later than three business days before lodging it or mailing it no later than six business days before lodging it.

(3) Certificate of Compliance; Notice to Chambers of Unresolved Dispute. Unless the proposed order is on an LBF, the proponent of an order or judgment for which circulation is required must certify that the proponent has complied with (2) above and that any applicable circulation period has expired. If a responding party timely objects to a proposed order or judgment and the objection is not resolved before the order or judgment is lodged, the proponent must so notify the court in writing, either in a certification of compliance required by this (3) or otherwise.

(b) Lodging of Proposed Order or Judgment.

(1) When Permitted. A proposed order or judgment that must be circulated may not be lodged until it is appropriate for the court to sign it, i.e., the proponent has complied with (a) above.

(€2) Orders to be Lodged with Motion or Application.

- (iA)** When requested by motion, substitution of attorney.
- (iiB)** [FRBP 2004](#) examination.
- (iiiC)** Requiring an interim report be filed to allow the filing of an interim compensation application.
- (ivD)** If the motion is accompanied by a certificate of consent by all parties, then the following:
 - (fi)** Extension or shortening of time.
 - (Hii)** Extension of [§ 523/§ 727](#) deadline.

(~~HH~~iii) Amendment of pleading.

(~~IV~~iv) Expedited hearing.

(~~B~~3) **Orders Not to be Lodged.** No party need lodge a proposed order of the types listed in [LBF #9021](#).

(~~B~~4) **Separate Document.** Except for an order or judgment which is stipulated or submitted on an LBF, a proposed order or judgment must be lodged as a document separate from any other document.

(35) **Form.**

(A) **General.** The top margin on the first page of any order or judgment must be 4", and devoid of all text except for optional line numbers, which must not be more than 3/4" from the left edge. All other pages must have a top and bottom margin of 1". A proposed order or judgment must:

...

(ii) State the name and docket number, if available, of any predicate motion or application.

(iii) State in simple and direct terms the ruling of the court.

(iiiiv) Include a street address, and include or attach a legal description, of any real property to which it pertains.

(ivv) Unless on an LBF, have three pound (###) symbols centered on the line immediately after the last line of the order or judgment text.

(vvi) Not include a "Dated" line.

(vivii) Not have a judge's signature line unless one is included by the court on an LBF.

(viiiii) Include the following after the three pound (###) symbols:

(I) On the left side of the last page, the signature of the individual presenting it, preceded by the words "Presented by" and followed by the presenter's name, address, telephone number, and capacity.

(II) A list of names and addresses of all contesting parties who are not, and whose attorneys are not, ECF Participants.

~~(B) — **Default.** In addition to the requirements in (A), the following form requirements apply to a proposed default order or judgment:~~

~~(i) — **Order.** A proposed default order must:~~

~~(I) — If to be entered in an adversary proceeding, state whether the matter is core or noncore, and not be included on the same document as the judgment.~~

~~(II) — State the filing date and docket number of the underlying motion or application, and of any notice concerning the motion or application.~~

~~(III) — Certify that the party to be defaulted made no response within the specified response period, plus three days if FRBP 9006(f) applies.~~

~~(ii) — **Judgment.** A proposed default judgment must be accompanied by a separate form of proposed order of default.~~

(B) Default Order in Adversary Proceeding. In addition to the requirements in (A), a proposed default order under FRBP 7055 must state whether the matter is core or noncore, state the name and docket number, if available, of the motion for default order, and be filed on a document separate from the proposed judgment.

(46) Service. The court may delegate to the party lodging a proposed order or judgment, or such other party specifically designated by the court, the clerk's obligation under [FRBP 9022\(a\)](#) to serve an order or judgment to the contesting parties immediately after entry of the order or judgment.

(bc) “Text-Only” Entry. An order or judgment electronically entered by court personnel as a text-only docket entry is as official and binding as if the judge or clerk had signed a document containing that text.

(cd) Costs and Fees.

...

Note [LBR 9021-1(a) and (b)(1)]

The proposed changes to (a) and (b)(1) would reorganize and clarify those provisions, as well as provide for mail circulation of proposed orders, a necessity for *pro se* parties.

Note [LBR 9021-1(b)(5)(A)(ii)]

This requirement would apply in general to all orders and judgments. If the motion and order are filed simultaneously, the docket number would not be known and could be omitted.

Note [LBR 9021-1(b)(5)(B)]

Although the general rule requires the reference, this change makes clear that the reference should be to the motion for default order as the underlying motion triggering the default determination. The separate document requirement is already contained in LBR 9021-1(b)(4) (new numbering) and FRBP 7058 (incorporating FRCP 58 for adversaries).

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

) Case No. _____
)
) (CHECK ALL APPLICABLE BOXES)
) ☐ Ch. 7/13 Motion for Relief from
) ☐ DEBTOR ☐ Chapter 13 CODEBTOR Stay
) Filed by Creditor:
) _____
) ☐ Response to Stay Motion filed by Respondent:
Debtor(s)) _____

1. **Debt, Default, Other Encumbrances, Description and Value of Collateral** *(To be completed by creditor)*

a. Description of collateral (car model, year, VIN, property address):

b. Amount of debt: \$ _____ consisting of principal _____; interest: \$ _____; other:

c. Description, amount and priority of other encumbrances on collateral. If not known, include applicable information from debtor's schedules if available on PACER:

Total debt secured by collateral (total 1.b. + 1.c.): \$ _____.

d. Value of collateral: \$ _____.
Equity in collateral: \$ _____, after deducting \$ _____ liquidation costs.

e. Current monthly payment: \$ _____.

f. If Chapter 13:

(1) \$ _____ postpetition default consisting of (e.g., \$ _____ payments, \$ _____ late charges, \$ _____ fees):

(2) \$ _____ prepetition default consisting of ☐ amounts specified in proof of claim, or, ☐ consisting of:

g. If Chapter 7, total amount of default \$ _____.

RESPONSE *(Identify specific items disputed and specify what you contend are the pertinent facts including why there is a postpetition default, if applicable) (to be completed by respondent):*

2. **Relief from stay should be granted because (check all that apply):** *(To be completed by creditor)*

- ☐ Lack of adequate protection because of failure to make sufficient adequate protection payments and lack of a sufficient equity cushion.
- ☐ Lack of insurance on collateral.
- ☐ No equity in the collateral and the property is not necessary for an effective reorganization.
- ☐ Failure of debtor to make Chapter 13 plan payments.
- ☐ Failure of debtor to make payments to secured creditor required by ¶4 of Chapter 13 plan.
- ☐ Other (describe):

RESPONSE *(Specify why relief from stay should be denied. If respondent proposes to cure a postpetition default, detail the cure by attaching a proposed order using Local Form (LBF) #720.90 available at www.orb.uscourts.gov under Rules & Forms/Local Bankruptcy Forms (LBF)) (to be completed by respondent):*

3. **Background** *(To be completed by creditor)*

a. Date petition filed: _____ Current Chapter: ____ (7 or 13)

If 13, current plan date _____ Confirmed: ☐ Yes ☐ No

If 13, treatment of creditor's prepetition claim(s) in plan:

If 7, debtor ☐ has ☐ has not stated on Local Form (LBF) #521 or #521.05 that debtor intends to surrender the collateral.

b. Creditor has a lien on the collateral by virtue of (check all applicable sections and also see ¶6 below):

- ☐ Security agreement, trust deed or land sale contract dated _____, and, if applicable, an assignment of said interest to creditor. The security interest was perfected as required by applicable law on _____.
- ☐ Retail installment contract dated _____, and, if applicable, an assignment of said interest to creditor. The security interest was perfected on the certificate of title on _____.
- ☐ Other (describe):

RESPONSE *(Identify any disputed items and specify the pertinent facts) (to be completed by respondent):*

4. **Request for Relief from Codebtor Stay** (Only Chapter 13)

a. _____, whose address is _____
_____, is a codebtor on the obligation described above, but is not a debtor in this bankruptcy.

b. Creditor should be granted relief from the codebtor stay because (check all applicable boxes): ☐ codebtor received the consideration for the claim held by creditor, ☐ debtor's plan does not propose to pay creditor's claim in full, ☐ creditor's interest would be irreparably harmed by continuation of the codebtor stay as a result of the default(s) described above and/or ☐ because:

RESPONSE (Identify any disputed items and specify the pertinent facts) (to be completed by respondent):

5. Other Pertinent Information (To be completed by creditor, if applicable):

RESPONSE (Identify any disputed items and specify the pertinent facts) (to be completed by respondent):

6. Relief Requested (check all applicable sections): (To be completed by creditor)

- ☐ Creditor requests relief from the automatic stay to allow it to foreclose its lien on the above identified collateral, and, if necessary, to take appropriate action to obtain possession of the collateral.
- ☐ Creditor has a security interest in real property and requests relief from stay with respect to an act against such property and that the relief be binding in any other bankruptcy case purporting to affect such real property filed not later than 2 years after the date of the entry of an order granting this motion. (If you check this box, you must complete ¶5 above to support this request. If you do not do so, the Court will not grant relief binding in any other bankruptcy case.)
- ☐ Creditor requests that the 14-day stay provided by FRBP 4001(a)(3) be waived based on the following cause:
- ☐ Other (describe and explain cause):

RESPONSE (Identify any disputed items and specify the pertinent facts. If respondent agrees to some relief, attach a proposed order using Local Form (LBF) #720.90 available at www.orb.uscourts.gov under ~~Rules & Forms~~/Local Bankruptcy Forms (LBF)) (to be completed by respondent):

7. **Documents:**

If creditor claims to be secured in ¶3.b. above creditor has attached to and filed with this motion a copy of the documents creating and perfecting the security interest, if not previously attached to a proof of claim.

If this case is a Chapter 13 case and the collateral as to which creditor seeks stay relief is real property, creditor has attached to and filed with this motion a postpetition payment history current to a date not more than 30 days before this motion is filed, showing for each payment the amount due, the date the payment was received, the amount of the payment, and how creditor applied the payment.

RESPONDENT requests creditor provide Respondent with the following document(s), if any marked, which are pertinent to this response:

- ☐ Postpetition payment history
- ☐ Documents establishing that creditor owns the debt described in ¶1 or is otherwise a proper party to bring this motion.
- ☐ Other document(s) (specific description):

CREDITOR/ATTORNEY

Signature: _____
Name: _____
Address: _____

Email Address: _____
Phone No: _____
OSB#: _____

RESPONDENT DEBTOR/ATTORNEY (by signing, the respondent also certifies that [s]he has not altered the information completed by creditor)

Signature: _____
Name: _____
Address: _____

Email Address: _____
Phone No: _____
OSB#: _____

RESPONDENT CODEBTOR/ATTORNEY (by signing, the respondent also certifies that [s]he has not altered the information completed by creditor)

Signature: _____
Name: _____
Address: _____

Email Address: _____
Phone No: _____
OSB#: _____

YOU ARE HEREBY NOTIFIED THAT THE CREDITOR IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Note

Resolution of chapter 13 stay-relief motions with respect to real property could be expedited if the movant were to include its postpetition payment history with the motion, rather than later in response to the debtor's request.

LBF #763, Objection to Claim, and Order and Notice Thereon

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

)

)

Case No. _____

)

)

)

OBJECTION TO CLAIM, AND

)

ORDER AND NOTICE THEREON

Debtor(s)

)

1. The undersigned objects to Claim No. _____, filed in the amount of \$ _____, by:
(Enter the current claimant's name, proof of claim notice address, and FRBP 7004 service address(es) of claimant)

2. The undersigned objects to such claim on the ground(s) it (check all applicable sections):

☐ Duplicates Claim No. _____ filed by _____.

☐ ~~Does not include a copy of the writing upon which it is based [NOTE: Do NOT use this for claims based on a statute (e.g., taxes)].~~

☐ ~~Does not include an itemized statement of the account.~~

☐ ~~Does not include a copy of the underlying judgment.~~

☐ ~~Does not include a copy of the security agreement and evidence of perfection.~~

☐ Fails to assert grounds for priority.

☐ **Was not filed on behalf of a real party in interest (e.g.,** ~~Does not include a copy of the assignment(s) upon which it is based~~**).**

☐ Appears to include interest or charges accrued after the filing.

☐ Appears **that** value of collateral exceeds debt.

☐ Arrearage asserted is incorrect.

☐ The creditor filed a secured claim, but neither: (a) specified that any portion of the claim should be treated as unsecured nor (b) requested a hearing to determine the value of their collateral, and therefore the trustee objects to any portion of the claim being treated as unsecured.

- ☐ The creditor filed a claim for taxes assessed against real or personal property of the debtor(s). The undersigned represents that the interest of the estate in the real or personal property against which the above taxes were assessed has no value in that the estate has no equity or interest in such property, and so under the provisions of 11 U.S.C. §502(b) no order can be made for payment of such taxes.
- ☐ Proof of claim does not include documentation required by FRBP 3001(c) and (d) (e.g., a copy of the note, or documents establishing secured status).
- ☐ Other:

3. The undersigned recommends said claim be (check applicable box(es)):

- ☐ Disallowed in full.
- ☐ (If objection is based on failure to provide documentation) Disallowed for distribution: If an amended claim including the required documentation is not filed within 30 days of the filed date noted above, no distribution on account of the claim will be made by the trustee or debtor.
- ☐ ~~[NOTE: You MUST fill in EACH blank even if it is "\$0"]~~ Allowed as a SECURED claim for \$_____; a PRIORITY UNSECURED claim for \$_____; AND a NONPRIORITY UNSECURED claim for \$_____. [You must fill in each blank even if it is \$0.]
- ☐ (If amount of arrearage is contested) The amount of the arrearage is \$_____.

4. **THE UNDERSIGNED CERTIFIES THAT** a copy of any Withdrawal of this Objection will be served on all parties that were served a copy of this Objection (i.e., the U.S. Trustee, any trustee, debtor(s), the creditor at the address shown above, and their respective attorneys; and, if the creditor is a federal agency, on the U.S. Attorney for the District of Oregon and the U.S. Attorney General).

DATE: _____

Objecting Party Signature AND Relation to Case

Objecting Party Name AND Service Address (Type or Print)

Objecting Party Phone Number

~~Any Case Trustee's Name AND Service Address (Type or Print)~~

(If Debtor is Objecting Party) Debtor's Address AND Taxpayer I.D.#(s) (last 4 digits)

Note

Note

The Court currently maintains LBF #763 for trustee claim objections and LBF #763.2 for other claim objections. The committee and Court now propose to combine these forms into a single form numbered LBF #763. The language on the form has been modified to relieve the trustee or DIP from having to honor a claim not backed up by basic documentation such as the note, or proof of perfection of a security interest, without adjudicating the validity of underlying claim.

LBF #1200.05, Chapter 12 Plan

UNITED STATES BANKRUPTCY COURT DISTRICT OF OREGON

In re)
) Case No. _____
)
) **CHAPTER 12 PLAN DATED** _____
) Motion to Value Collateral
Debtor(s)) Secured Claim Amount Limited with Creditor Consent

- I. The debtor shall pay to the trustee (a) a periodic payment of \$ _____ every _____ (insert either month, quarter, six months or year); (b) all proceeds from avoided transfers, including proceeds from transfers avoided by the trustee; (c) upon receipt by the debtor, all net tax refunds attributable to prepetition tax years and net tax refunds attributable to postpetition tax years (i.e., tax refunds not included on Schedule I, less tax paid by debtor for a deficiency shown on any tax return for that same postpetition tax year or tax paid by setoff by a tax agency for a postpetition tax year) received by the debtor during: The life of the plan, or 36 months from the date the first plan payment is due (*check applicable provision; if neither is checked, "for the life of the plan" applies*); (d) a lump sum payment of \$ _____ on _____ (date); and (e) _____

2. From the payments so received, the trustee shall make disbursements as follows:

- (a) First, to the trustee's commission and expenses.
(b) Second, with respect to secured creditors, the terms of the debtor's prepetition agreement with each secured creditor shall continue to apply, except as otherwise provided for in this plan or the confirmation order. Secured creditors shall retain their liens until the payment of the underlying debt, determined under nonbankruptcy law, or discharge under §1228, as appropriate. Any allowed secured claims will be paid as shown below. Should the trustee not have sufficient funds in trust to pay fully the disbursements listed below, disbursements of funds available shall be made pro rata. If a creditor is not fully secured, the unsecured portion of the creditor's claim shall be treated under the provisions of pt. 2(e) and (f) if the claim identifies the priority portion of the claim, and, if not, under the provisions of pt. 2(f) only. The following also apply:
(1) To creditors whose claims have been timely filed and allowed as secured, make payments as follows: Estimated prepetition arrearages on property must be shown below, separately, and identified as such if debtor is curing defaults under 11 USC §1222(b)(5)). THE ARREARAGES AND TOTAL AMOUNT OF DEBT SHOWN IN A TIMELY FILED AND ALLOWED SECURED CLAIM SHALL CONTROL.

Creditor	Collateral	Estimated Arrearage, if Curing	Collateral Value, if Not Paying in Full	Estimated Total Debt, if Paying in Full	Term of Payments	Post-confirmation Interest Rate	Periodic Payment
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If payments to a creditor are to begin after debtor's attorney has been paid, the payments to said attorney shall not exceed \$ _____ before the creditor is paid. If the debtor is not paying the debt in full, the debtor MOVES the court for an order fixing the value of the collateral as set forth above.

If the collateral is not to be sold, the value of the collateral shall be fixed in the amount stated above for purposes of administration of this plan as well as for purposes of the amount of any secured claim, if undersecured, unless objected to at or before the first date set for the confirmation hearing on this plan or, if applicable, prior to expiration of time to object to this proposed modified plan, in which case the value will be determined by the court. If the collateral is to be sold the value shall be the sales price. The debtor MOVES the court for an order so fixing the value of the collateral. Otherwise, the creditor's proof of claim shall control.

- (2) DEBTOR PROPOSES THAT THE CREDITOR(S) SPECIFICALLY IDENTIFIED BELOW AGREE TO THE FOLLOWING TREATMENT WHICH THE COURT MIGHT NOT BE ABLE TO APPROVE ABSENT CONSENT OF CREDITOR(S). FAILURE OF CREDITOR(S) TO FILE A WRITTEN OBJECTION TO THIS PLAN PRIOR TO CONFIRMATION SHALL CONSTITUTE ACCEPTANCE OF THE PLAN. FROM THE PAYMENTS RECEIVED PURSUANT TO PT. 1, IF A CLAIM HAS BEEN TIMELY FILED AND ALLOWED AS SECURED, MAKE PAYMENTS TO THE FOLLOWING HOLDERS OF SUCH CLAIMS AS DETAILED BELOW. ESTIMATED PREPETITION ARREARAGES, IF CURING AND REINSTATING, MUST BE SHOWN BELOW. THE ARREARAGES SHOWN IN A TIMELY FILED AND ALLOWED SECURED CLAIM SHALL CONTROL.

Creditor	Collateral	Estimated Arrearage, if Curing	Collateral Value, if Not Paying in Full	Estimated Total Debt, if Paying in Full	Term of Payments	Post-confirmation Interest Rate	Periodic Payment
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If the collateral is not to be sold, for purposes of administration of this plan and case, the secured claim shall be limited to the value of the collateral stated above, unless creditor(s) objects at or before the first date set for the confirmation hearing on this plan or, if applicable, prior to expiration of time to object to any proposed modified plan, in which case, the values will be determined by the court. If the collateral is to be sold, the value shall be the sales price. The debtor MOVES the court for an order so fixing the value of the collateral.

(3) Adequate protection payments shall be disbursed by the trustee pre-confirmation from funds on hand with the trustee in the payment amounts specified in the plan for the subject secured creditors, absent a provision in this plan or a court order providing for a different amount to be paid preconfirmation. If the debtor fails to make monthly payments sufficient to pay the adequate protection payments in full, the trustee will disburse available funds pro rata according to the payments proposed for subject secured creditors. Adequate protection payments paid through the trustee preconfirmation will be deducted from the amount of the allowed claim. Unless the concerned secured creditor is fully secured or oversecured, no interest shall be paid from the date of the filing of the petition to the date of confirmation unless otherwise specifically provided for in the payment provisions set forth above.

(4) The debtor shall surrender any collateral which is not otherwise addressed by the terms of this plan no later than upon confirmation of this plan to the following creditors (state creditor NAME and DESCRIBE collateral to be surrendered):

(c) Third, pro rata, until fully paid, allowed unsecured domestic support obligations.

(d) Fourth, allowed administrative expenses under §507(a)(2).

(e) Fifth, pro rata, until fully paid, to allowed priority claims in the order stated in §507(a)(3)-(10), unless otherwise ordered.

(f) Sixth, pro rata, to timely filed and allowed nonpriority unsecured claims, the amounts required by §1225(b)(1). These monies will be distributed in the method indicated in the applicable section marked below. The terms of pt. 8 shall also apply.

____(1) The creditors will receive approximately _____% of their claims. This percentage will vary depending on the amount of total creditors' claims filed.

____(2) The creditors will receive a minimum _____% of their claims. This percentage will not be reduced despite the amount of total creditors' claims filed.

(g) Pursuant to §1225(a)(4), the unsecured creditors as a group will receive 100% a minimum of \$ _____ (check applicable provision; if neither is checked, "100%" controls) plus _____% shall be paid on all timely filed and allowed priority and nonpriority unsecured claims from the date of plan confirmation to compensate for deferred payment.

3. The debtor moves for assumption of the following executory contracts and leases:

Creditor	Amount of Default [State if None]	Cure Provisions
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Those executory contracts or leases not specifically mentioned above are treated as rejected. Any timely filed and allowed claim arising from rejection shall be treated under pt. 2(f). The debtor will pay all assumed executory contracts and leases directly, including amounts required to cure. The debtor shall surrender any property covered by rejected executory contracts or leases to the affected creditor no later than upon confirmation of this plan.

4. The debtor shall pay directly to each of the following creditors, whose debts are fully secured, the regular payment due postpetition on these claims in accordance with the terms of their respective contracts, list any prepetition arrearages in pt. 2(b), and/or specify any other treatment of such secured creditor(s) in pt. 2(b):

5. The property described below is to be sold [also state offering price and whether it will be offered through a broker (and if so, who), and state date by which it will be sold and what will occur if it is not timely sold], all offers received by the debtor shall be promptly communicated to the trustee and lienholders, and no sale of such property shall be completed without notice to lienholders and the trustee and an opportunity for a hearing:

6. Subject to the provisions of §502, untimely claims are disallowed, without the need for formal objection, unless allowed by court order.

7. Except as provided in this plan or in the order confirming the plan, upon confirmation of this plan all of the property of the estate shall vest in the debtor(s) free and clear of any claim or interest of any creditor provided for by this plan pursuant to 11 USC §1227.
8. [To be completed if plan will not be completed until more than 36 months after the first plan payment due under the originally filed plan.] The scheduled month and year the plan will be completed is _____ and the cause for a plan longer than 36 months is:
_____.
Except as otherwise explicitly provided by pt. _____, the debtor shall make plan payments for the longer of either: (a) 36 months from the date the first payment is due under the original plan, unless the debtor pays 100% of all claims with interest if required, or (b) the time necessary to complete required payments to creditors.
9. This plan may be altered postconfirmation in a non-material manner by court order after notice to the debtor, the trustee, any creditor whose claim is the subject of the modification, and any interested party who has requested special notice.
10. Except as otherwise provided herein, (a) postpetition interest on all unsecured claims is disallowed, and (b) unsecured claims allowed in the amount of \$25 or less, to the extent claims of that class are entitled to a distribution under this plan, shall be paid in the full amount allowed prior to any payments to other unsecured claims of the same class.

DATED: _____

DEBTOR

~~IN ORDER TO ASSURE PROPER SERVICE ON ALL CREDITORS LISTED IN pts. 2(b)(1) or 2(b)(2) OF THE PLAN pursuant to FRBPs 3012, 4003(d), 9014 and 7004: (a) I LISTED ON THE MAILING MATRIX such creditors, other than insured depository institutions, in care of a person or entity authorized to be served; AND (b) I SERVED VIA CERTIFIED MAIL, ON _____, COPIES OF THIS PLAN ON any insured depository institution(s) affected by pts. 2(b)(1) or 2(b)(2) of the Plan [FRBP 7004(h)]; AND (c) THE FOLLOWING LIST SEPARATELY IDENTIFIES all such creditors served via matrix listing and such creditors served via certified mail INCLUDING the names AND addresses of ALL such creditors served (NOTE: With respect to creditors served via matrix listing, the list of names and addresses IS IDENTICAL to those included in the matrix):~~

CERTIFICATE OF SERVICE on Creditors/Parties Treated in Paragraphs 2(b)(1) and (2) (under the "Collateral Value, if Not Paying in Full" columns) and 3 (see FRBPs 3012, 7004, and 9014, and LBR 6006-1(b)).

I certify that copies of this plan and the notice of hearing to confirm this plan were served as follows:

a) For creditors/parties who are **not** Insured Depository Institutions (served by court) (see FRBP 7004(b)), I either listed the creditors/parties in the mailing list filed with the court exactly as follows, OR, on (insert date) _____, I served the above-documents by first-class mail to the creditors/parties at the names and addresses exactly as follows (list each creditor/party, the person or entity the creditor/party was served through, and the address): _____.

b) For Insured Depository Institutions (see FRBP 7004(h)), on (insert date) _____, I served the above-documents by certified mail, or by other authorized means (specify), at the name and address exactly as follows (list each insured depository institution, the person or entity the institution was served through, and the address): _____.

DEBTOR OR DEBTOR'S ATTORNEY

Note

The proposed modification to the certificate of service for the Chapter 12 plan is consistent with the recent change to the certificate of service for the Chapter 13 plan (LBF #1300.14).